MT LEGISLATIVE HISTORY

Chapter 444 1993

Bill H _____ S 121 Original bill & hist. ___C

H. Committee on Labor & Employment Relations S. Committee on Labor & Employment Relations

Hearing Date(s)		Hearing Date(s)	
Feb 21	✓C	Jan 22	✓C
_____	___C	Feb 02	✓C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out Feb 21	✓C	Feb 02	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, January 22, 1973, at 12:00 Noon, Room 402 of the State Capitol Building.

ROLL CALL: Senator Flynn was the only absent member.

CONSIDERATION OF SENATE BILLS 113 THROUGH 138:

James Carden of the Workmen's Compensation Division was present to explain the background and history of this packet of bills. No opponents were present. These bills were prepared by a committee recommended by the President, consisting of 4 members of labor and 4 members of management.

SB 113: The main purpose of this bill is to see that every working man is covered by some kind of compensation. Substantially, the language has been changed to mandatory rather than elective. All industries that were not considered to be hazardous were elective before.

SB 114: Primarily amendments to existing law. The Governor's Advisory Council on Workmen's Compensation respectfully requests that SB 114 be withdrawn.

SB 115: Mandatory coverage of all employees. Repeals statutes that relate to elective coverage. Amendments read and explained. Page 1, line 23, strike "either" and add "any" and Page 2, line 4 beginning with the second "Provided" strike the rest of line 4, 5, 6, 7, 8, 9, and 10. Chairman Siderius asked if the repealed sections were thoroughly researched. Mr. Carden stated that they were and also that Roger Hasell, who is now working for the Legislative Council, worked with this Committee in drafting these bills and could be of help to this committee.

SB 116: Repeals several sections because these are no longer considered to be necessary in the Workmen's Compensation Act.

SB 117: Additional language to the end of the bill.

SB 118; 119; and 120: Similar bills. Up until now there has never been a definite definition of "temporary total disability", "permanent partial disability" or "permanent total disability." Felt they must differentiate between the three types of disabilities. Senator Shea asked if a man had been earning $40 per day and was injured but later on could earn perhaps $15 to $20 per day, how would he be compensated. Mr. Carden replied that it would be a percentage of the difference between the two wages. Also the present law allows up to 500 weeks.

SB 121: Added the word "gross" on line 15. A person employed by public corporations cannot draw on sick leave and Workmen's Compensation simultaneously. He can however, draw on one and then the other. He may draw annual leave simultaneously with Workmen's Compensation

George Siderius

SENATE BILL 121: Senator Keenan moved, seconded by Senator Jensen that SB 121 DO PASS. Motion carried.

SENATE BILL 122: Senator Shea moved, seconded by Senator Keenan that SB 122 DO PASS. Motion carried.

SENATE BILL 123: Senator Bennett moved, seconded by Senator McNamer that the amendment on Page 1, Section 1, line 25 be accepted. Motion carried.

Senator Keenan moved, seconded by Senator Jensen that SB 123 DO PASS AS AMENDED. Motion carried, Senator Lowe opposing.

Senator Lowe moved that on Page 1, line 20 and 21 be amended by striking the words "the state's average weekly wage." and inserting in lieu thereof the word and figure "eighty-five dollars ($85))"

Chairman Siderius resisted the motion. Motion made and seconded that SB 123 DO PASS AS AMENDED. Motion carried, Senator Lowe opposing.

SENATE BILL 124: Chairman Siderius had an amendment to SB 124 but the hour being 1:30 Senator Jensen moved to adjourn, seconded by Senator Keenan. Motion carried.

This committee will meet on Monday, February 5, at 12:00 Noon.

SENATOR GEORGE SIDERIUS, CHAIRMAN

SENATE COMMITTEE Labor & Employment Relations

Date 2/2/73 Senate Bill No. 121 Time

NAME	YES	NO
Art Jensen	X	
Bill Bertsche	X	
Elmer Flynn	X	
P.J. Keenan	X	
Jimmy Shea	X	
George Bennett	X	
Matt Himsl	X	
Bill Lowe	X	
Jim Moore	X	
William McNamer	X	
George Siderius, Chairman		

Secretary Louise Sullivan

Chairman George Siderius

Motion: SB 121 DO PASS

Chairman

George Siderius

February 21, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Wednesday, February 21, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Ellerd and Flynn.

SENATE BILL # 113 -- SPONSOR: Sen. Lowe -- introduced Jim Carden of Workemn's Comp., who explained all of the following bills in place of Sen. Lowe. This bill redefines the word "employer". Sen. Lowe suggested an amendment to the title in order to conform with the Senate's amendment to the body.

SENATE BILL # 115 -- SPONSOR: Sen. Siderius. Jim Carden explained that this bill is a housekeeping bill. It containes an interpretation of 'elective' and 'mandatory'. Questions followed. Jim Murry, AFL-CIO, said that the Governor's Committee (which he sat on) would not support the Senate's amendment on the bill.

SENATE BILL # 116 -- SPONSOR: Sen. Siderius. Jim Carden said it was another housekeeping bill; which repeals certain sections of Montana law that are rather archaic.

SENATE BILL # 117 -- SPONSOR: Sen. Lowe. Jim Carden said that the only reason for it was that they added the words "industrial insurance account" in the definition of "industrial insurer".

SENATE BILL'S # 118, 119, 120 -- SPONSORS: Sens. Keenan and Siderius. Jim Carden explained that the three bills had to do with three different types of disability. 118 -- defines "total temporary disability"; 119 --"permanent partial disability"; 120 -- "total permanent disability". At the present the only definitions are contained only in case law, not the statutes. Questions followed.

SENATE BILL # 121 -- SPONSOR: Sen. Keenan. Jim Carden said that this has to do with the definition of "wages". In the past many employees have been receiving sick leave pay and workmen's comp. at the same time; this taxes the general fund unfairly. Questions followed.

SENATE BILL # 122 -- SPONSOR: Sen. McKeon. Jim Carden said that it has to do with permanent partial disability. It deletes the dependency requirements we have under the present law. Jim Murry supports the package of bills, not including the Senate amendments. The Governer's Committee met for nearly two years drafting this legislation. Robert Helding, representing the St. Regis Paper Company, -- it is appalling to him that a group would take the position that because a group discusses possible legislation and comes up with what it feels that it wants that it should try to replace the legislators in their wisdom. R.L. Rampy, Teamsters J. C. # 23 -- in reference to the amendments, he did not take a

position; he thought that should be left to the consideration of the Committee. Questions followed. It was pointed out that under Plan 3, the cost factor on SB 122 would involve a total increase of 2% in workmen's comp. premiums.

A letter was received by some of the Committee members from the Industrially Disabled Workmen of Montana. Rep. Turner moved, Rep. Lee seconded that Chairman McKittrick send a letter to the Employment Security Commission asking about this group. Motion carried unanimously. The following action on bills was taken:

SB # 113 -- Rep. Bell moved, seconded by Tierney that an amendment be adopted. Motion carried unanimously. Rep. Lee then moved that the bill be CONCURRED IN AS AMENDED; seconded by Hodges. Motion carried; East opposed.

SB # 115 -- Rep. Lee moved that the Senate amendment be stricken; (seconded by Baeth) and that AS SO AMENDED BE CONCURRED IN. Motion carried; East voted no and Rep. Bell was not in the room.(from this vote on)
SB # 116 -- Rep. Colberg moved it BE CONCURRED IN. Seconded by Kimble; motion carried unanimously.

SB # 117 -- Rep. Colberg moved, seconded by Tierney, that it BE CONCURRED IN Motion carried unanimously.

SB # 118 -- Rep. Lee moved, seconded by Turner, that it BE CONCURRED IN. Motion carried unanimously.

SB # 119 -- Rep. Baeth moved, seconded by Turner, that it BE CONCURRED IN. Motion carried unanimously.

SB # 120 -- Rep. Lee moved, Turner seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 121 -- Rep. Lee moved, Baeth seconded, to amend it. Discussion followed. The motion that it BE CONCURRED IN AS AMENDED was then carried, with East opposed.

SB # 122 -- Rep. Baeth moved that it BE CONCURRED IN; seconded by Lee. Discussion followed. Motion carried, East opposed.

Rep. East was given the option to change the dissenting votes to aye's at a later date. Meeting was adjourned.

Chairman Pat McKittrick

Secretary

WITNESS STATEMENT

Name James Gordon Date

Address Helena Support ? X

Representing W.C.D. Oppose ?

Which Bill ? All Amend ?

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name [illegible] Date _____

Address _____ Support ? _____

Representing _____ Oppose ? _____

Which Bill ? 113 — Amend ? _____

Comments:

also Sen McKeon
SB 113 on

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Sen. Pat Kennedy Date 2/21/92

Address 1100 E Fifth - Kinsman Support ? ✓

Representing _____ Oppose ? _____

Which Bill ? S.B 120 - S.B. 121 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name BOB HELDING Date 2-21-73

Address MISSOULA, MONT. Support ?

Representing ST. REGIS PAPER CO. Oppose ?

Which Bill ? SB 113-121 Amend ?

Comments:

CLARIFIED POSITIONS ON ADVISORY COUNCILS.

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name G. L. Campbell Date 2/6 2/93

Address Holiday Inn, Helena Support ? ✓

Representing Teamsters J.C. #23 Oppose ? _____

Which Bill ? SB - 113 - 115 - 116 - 117 - 118 Amend ? _____
119 - 120 - 121 - 122

Comments:

Please leave prepared statement with the committee secretary.

SENATE BILL NO. 121

INTRODUCED BY KEENAN, SIDERIUS

92-423

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A DEFINITION OF "WAGES" IN THE WORKMEN'S COMPENSATION ACT; AND REPEALING SECTION 92-423, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. There is a new section to be numbered 92-423.1, R.C.M. 1947, which reads as follows:

92-423.1. Wages defined. "Wages" means the average gross earnings received by the employee at the time of the injury for the usual hours of employment in a week and overtime is not to be considered. ~~IN THE COMPUTATION OF WAGES IN AGRICULTURAL EMPLOYMENT ONLY~~ EARNINGS PAYABLE IN MONEY SHALL BE USED IN THE COMPUTATION.

Sick leave benefits accrued by employees of "public corporations" as defined by section 92-434 are considered "wages".

Section 2. Section 92-423, R.C.M. 1947, is repealed.

-End-

THIRD READING

Section 3. Section 92-902, R.C.M. 1947, is amended to read as follows:

"92-902. **Proof of solvency of employer electing plan No. 1 to be filed.** Every employer who *has* elected to be bound by compensation plan No. 1, shall file proof of his solvency within the time and in *the* form as may be prescribed by the rules or orders of the *division*.

The *division* may levy an assessment in an amount not to exceed three-hundredths of one *percent (.03%)* of the annual payroll of such employer in Montana, for the preceding fiscal year, which assessment shall be paid to the *division* by *the* employer at the time of filing of proof of solvency.

No assessment shall be in an amount less than two hundred dollars ($200).

If *the* employer had no payroll in Montana for the entire preceding fiscal year, the assessment shall be based on the estimated payroll for the year in which election is made.

The *division* shall pay the amounts so collected into the state treasury."

Section 4. Section 92-1102, R.C.M. 1947, is amended to read as follows:

"92-1102. **Permitting employers to elect to comply and come under the provisions of this act — classification of such employers and their employees.** *An* employer *shall* comply with the provisions of this act, in which event he *will* not be liable to respond in damages at common law or by statute for injury or death of *an* employee and shall enjoy the benefits and privileges of this act. The employee of *the* employer *is considered* to come under the provisions of this act unless *the* employee *executes* and *files* with the *division* on proper *forms* to be furnished for that purpose, a specific election not to be so bound, in which event he shall not enjoy the benefits or privileges of this act until *the* election is withdrawn.

Section 5. Section 92-1121, R.C.M. 1947, is amended to read as follows:

"92-1121. **What included in computing compensation in employment.** In computing the payroll, the entire compensation received by every workman employed *under* this act, shall be included, whether it be in the form of salary, wage, piecework, or otherwise, and whether payable in money, board or otherwise."

Section 6. Sections 92-301 through 92-306 and 92-402 through 92-407, R.C.M. 1947, are repealed.

Approved: March 23, 1973.

CHAPTER NO. 444

An Act Providing for a Definition of "Wages" in the Workmen's Compensation Act; and Repealing Section 92-423, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-423.1, R.C.M. 1947, which reads as follows:

92-423.1. **Wages defined.** "Wages" means the average gross earnings received by the employee at the time of the injury for the usual hours of employment in a week and overtime is not to be considered.

Sick leave benefits accrued by employees of "public corporations" as defined by section 92-434 are considered "wages".

Section 2. Section 92-423, R.C.M. 1947, is repealed.

Approved: March 23, 1973.

CHAPTER NO. 445

An Act Providing for a Definition of "Average Weekly Wage" in the Workmen's Compensation Act; and Repealing Section 92-422, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. There is a new section to be numbered 92-423.2, R.C.M. 1947, which reads as follows:

92-423.2. **Average weekly wage defined.** "Average weekly wage" means the mean weekly earnings of all employees under covered employment as defined and established annually by the division of employment security of the Montana department of labor and industry. It is established at the nearest whole dollar ($1) number and shall be adopted by the division of workmen's compensation prior to July 1 of each year.

Section 2. Section 92-422, R.C.M. 1947, is repealed.

Approved: March 23, 1973.

CHAPTER NO. 446

An Act Amending Section 32-2805, R.C.M. 1947, Increasing Payment to County Surveyors and Members of County Boards of